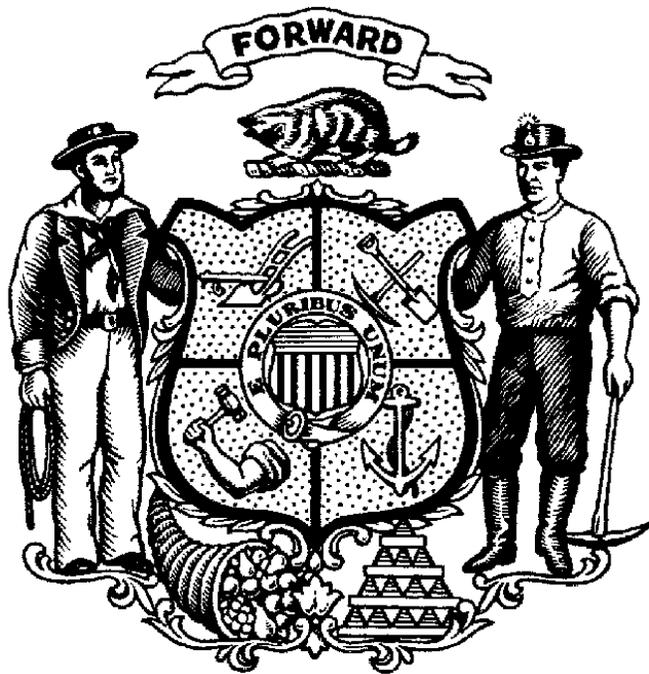


State of Wisconsin

Court of Appeals



Agency Budget Request

2013 – 2015 Biennium

September 17, 2012

Table of Contents

Description	3
Agency Total by Fund Source.....	4
Agency Total by Program.....	6
Agency Total by Decision Item (DIN).....	7
General Purpose Revenue (GPR) - Earned	8
Decision Items.....	9

AGENCY DESCRIPTION

The Court of Appeals consists of 16 judges elected for staggered six-year terms. The court is divided into four panels located in Milwaukee, Waukesha, Wausau and Madison and is supervised by a chief judge appointed by the Supreme Court.

The Court of Appeals has original jurisdiction to issue prerogative writs and appellate jurisdiction over all final judgments and orders of the Circuit Courts, which can be appealed as a matter of right.

The Court of Appeals usually sits as a three-judge panel to dispose of cases on their merits. However, a single judge may hear certain categories of cases, including small claims; municipal ordinance and traffic violations; and mental health, juvenile and misdemeanor cases. The Court of Appeals provides a written opinion containing a summary of the reasons for a decision made by the court.

Agency Total by Fund Source

Court of Appeals

1315 Biennial Budget

ANNUAL SUMMARY						BIENNIAL SUMMARY					
Source of Funds		Prior Year Total	Adjusted Base	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE	Base Year Doubled (BYD)	Biennial Request	Change From (BYD)	Change From BYD %
GPR	S	\$10,046,505	\$10,477,000	\$10,473,700	\$10,536,700	76.50	76.50	\$20,954,000	\$21,010,400	\$56,400	0.3%
Total		\$10,046,505	\$10,477,000	\$10,473,700	\$10,536,700	76.50	76.50	\$20,954,000	\$21,010,400	\$56,400	0.3%
Grand Total		\$10,046,505	\$10,477,000	\$10,473,700	\$10,536,700	76.50	76.50	\$20,954,000	\$21,010,400	\$56,400	0.3%

Agency Total by Program

660 Court of Appeals

1315 Biennial Budget

Source of Funds	ANNUAL SUMMARY						BIENNIAL SUMMARY			
	Prior Year Actual	Adjusted Base	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE	Base Year Doubled (BYD)	Biennial Request	Change From (BYD)	Change From BYD %
01 APPELLATE PROCEEDINGS										
Non Federal										
GPR	\$10,046,505	\$10,477,000	\$10,473,700	\$10,536,700	76.50	76.50	\$20,954,000	\$21,010,400	\$56,400	0.27%
S	\$10,046,505	\$10,477,000	\$10,473,700	\$10,536,700	76.50	76.50	\$20,954,000	\$21,010,400	\$56,400	0.27%
Total - Non Federal	\$10,046,505	\$10,477,000	\$10,473,700	\$10,536,700	76.50	76.50	\$20,954,000	\$21,010,400	\$56,400	0.27%
S	\$10,046,505	\$10,477,000	\$10,473,700	\$10,536,700	76.50	76.50	\$20,954,000	\$21,010,400	\$56,400	0.27%
PGM 01 Total	\$10,046,505	\$10,477,000	\$10,473,700	\$10,536,700	76.50	76.50	\$20,954,000	\$21,010,400	\$56,400	0.27%
GPR	\$10,046,505	\$10,477,000	\$10,473,700	\$10,536,700	76.50	76.50	\$20,954,000	\$21,010,400	\$56,400	0.27%

Agency Total by Program

660 Court of Appeals

1315 Biennial Budget

S	\$10,046,505	\$10,477,000	\$10,473,700	\$10,536,700	76.50	76.50	\$20,954,000	\$21,010,400	\$56,400	0.27%
TOTAL 01	\$10,046,505	\$10,477,000	\$10,473,700	\$10,536,700	76.50	76.50	\$20,954,000	\$21,010,400	\$56,400	0.27%
S	\$10,046,505	\$10,477,000	\$10,473,700	\$10,536,700	76.50	76.50	\$20,954,000	\$21,010,400	\$56,400	0.27%
Agency Total	\$10,046,505	\$10,477,000	\$10,473,700	\$10,536,700	76.50	76.50	\$20,954,000	\$21,010,400	\$56,400	0.27%

Agency Total by Decision Item

Court of Appeals

1315 Biennial Budget

Decision Item	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
2000 Adjusted Base Funding Level	\$10,477,000	\$10,477,000	75.50	75.50
3003 Full Funding of Continuing Position Salaries and Fringe Benefits	(\$250,700)	(\$250,700)	0.00	0.00
3010 Full Funding of Lease and Directed Moves Costs	\$20,100	\$41,500	0.00	0.00
5100 Central Staff Attorney	\$86,000	\$114,700	1.00	1.00
6214 Judicial Compensation	\$141,300	\$154,200	0.00	0.00
TOTAL	\$10,473,700	\$10,536,700	76.50	76.50

GPR Earned

1315 Biennial Budget

	CODES	TITLES
DEPARTMENT	660	Court of Appeals
PROGRAM	01	Appellate proceedings
DATE	September 17, 2012	

Revenue	Prior Year Actuals	Base Year Estimate	1st Year Estimate	2nd Year Estimate
Opening Balance	\$0	\$0	\$0	\$0
GPR-Earned	\$192,700	\$210,000	\$210,000	\$210,000
Total	\$192,700	\$210,000	\$210,000	\$210,000

Decision Item (DIN) - 2000

Decision Item (DIN) Title - Adjusted Base Funding Level

NARRATIVE

Adjusted Base Funding Level

Decision Item by Line

1315 Biennial Budget

	CODES	TITLES
DEPARTMENT	660	Court of Appeals
	CODES	TITLES
DECISION ITEM	2000	Adjusted Base Funding Level

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$6,024,300	\$6,024,300
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$25,000	\$25,000
05	Fringe Benefits	\$2,698,100	\$2,698,100
06	Supplies and Services	\$1,579,600	\$1,579,600
07	Permanent Property	\$150,000	\$150,000
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0

17	Total Cost	\$10,477,000	\$10,477,000
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	75.50	75.50

Decision Item by Numeric

Court of Appeals

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	2000	Adjusted Base Funding Level			
01	Appellate proceedings				
	01 General program operations	\$10,477,000	\$10,477,000	75.50	75.50
	Appellate proceedings SubTotal	\$10,477,000	\$10,477,000	75.50	75.50
	Adjusted Base Funding Level SubTotal	\$10,477,000	\$10,477,000	75.50	75.50
	Agency Total	\$10,477,000	\$10,477,000	75.50	75.50

Decision Item by Fund Source

Court of Appeals

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	2000	Adjusted Base Funding Level				
	GPR	S	\$10,477,000	\$10,477,000	75.50	75.50
	Total		\$10,477,000	\$10,477,000	75.50	75.50
Agency Total			\$10,477,000	\$10,477,000	75.50	75.50

Decision Item (DIN) - 3003

Decision Item (DIN) Title - Full Funding of Continuing Position Salaries and Fringe Benefits

NARRATIVE

Standard Budget Adjustment - Full Funding of Continuing Position Salaries and Fringe Benefits

Decision Item by Line

1315 Biennial Budget

	CODES	TITLES
DEPARTMENT	660	Court of Appeals
	CODES	TITLES
DECISION ITEM	3003	Full Funding of Continuing Position Salaries and Fringe Benefits

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	(\$33,500)	(\$33,500)
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	(\$217,200)	(\$217,200)
06	Supplies and Services	\$0	\$0
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0

16		\$0	\$0
17	Total Cost	(\$250,700)	(\$250,700)
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

Decision Item by Numeric

Court of Appeals

Program	Decision Item/Numeric	1st Year 2nd Year			
		1st Year Total	2nd Year Total	FTE	FTE
	3003	Full Funding of Continuing Position Salaries and Fringe Benefits			
01	Appellate proceedings				
	01 General program operations	(\$250,700)	(\$250,700)	0.00	0.00
	Appellate proceedings SubTotal	(\$250,700)	(\$250,700)	0.00	0.00
	Full Funding of Continuing Position Salaries and Fringe Benefits SubTotal	(\$250,700)	(\$250,700)	0.00	0.00
	Agency Total	(\$250,700)	(\$250,700)	0.00	0.00

Decision Item by Fund Source

Court of Appeals

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	3003	Full Funding of Continuing Position Salaries and Fringe Benefits				
	GPR	S	(\$250,700)	(\$250,700)	0.00	0.00
	Total		(\$250,700)	(\$250,700)	0.00	0.00
Agency Total			(\$250,700)	(\$250,700)	0.00	0.00

Decision Item (DIN) - 3010

Decision Item (DIN) Title - Full Funding of Lease and Directed Moves Costs

NARRATIVE

Standard Budget Adjustment - Full Funding of Lease and Directed Moves Costs

Decision Item by Line

1315 Biennial Budget

	CODES	TITLES
DEPARTMENT	660	Court of Appeals
	CODES	TITLES
DECISION ITEM	3010	Full Funding of Lease and Directed Moves Costs

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$0	\$0
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	\$20,100	\$41,500
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0

17	Total Cost	\$20,100	\$41,500
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

Decision Item by Numeric

Court of Appeals

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	3010	Full Funding of Lease and Directed Moves Costs			
01	Appellate proceedings				
	01 General program operations	\$20,100	\$41,500	0.00	0.00
	Appellate proceedings SubTotal	\$20,100	\$41,500	0.00	0.00
	Full Funding of Lease and Directed Moves Costs SubTotal	\$20,100	\$41,500	0.00	0.00
	Agency Total	\$20,100	\$41,500	0.00	0.00

Decision Item by Fund Source

Court of Appeals

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	3010	Full Funding of Lease and Directed Moves Costs				
	GPR	S	\$20,100	\$41,500	0.00	0.00
	Total		\$20,100	\$41,500	0.00	0.00
Agency Total			\$20,100	\$41,500	0.00	0.00

Decision Item (DIN) - 5100

Decision Item (DIN) Title - Central Staff Attorney

NARRATIVE

The Court of Appeals requests \$86,000 GPR in 2013-2014 and \$114,600 GPR in 2014-2015 and 1.0 GPR central staff attorney position to meet a workload that has increased substantially since 1991, the last year a staff attorney was approved. Since 1986 one new staff attorney has been authorized, an 8% increase, while the number of judgeships has expanded from 12 to 16, a 33% increase. Currently, there are 14 staff attorney positions plus one chief staff attorney. The Court of Appeals' workload is non-discretionary and all cases must be decided in writing. Staff attorneys are responsible for drafting per curiam opinions and summary disposition orders; reviewing the record and preparing opinions for the Court's no merit cases; and reviewing petitions and motions and drafting orders disposing of them. Staff attorneys have struggled to stay abreast of a larger and changing workload. One-quarter of the Court's workload now involves a pro se litigant. These filings take significantly more staff time because pro se litigants, untrained in both substantive and procedural law, tend to file imprecise motions and briefs. The Court must spend considerable time and effort deciphering any pro se filing, and it relies on the staff attorneys to perform the bulk of that important task. To provide citizens with fair and timely justice, it is important focus on the Court of Appeals' ability to improve days to disposition. Over the last 10 and 20 years respectively, all districts have experienced significant increases in the number of days to disposition. The average amount of time for a per curiam opinion was 252 days in 1991, 329 days in 2001 and 380 days in 2011, an increase of 51 percent over 20 years. Similarly, the average amount of time for a summary disposition was 229 days in 1991, 267 in 2001 and 353 days in 2011, an increase of 54 percent over 20 years. The Court's ability to dispose of appeals in a timely fashion is being compromised. It is estimated that an additional staff attorney would reduce disposition times for cases assigned to staff attorneys. For example, it is estimated that, in District IV, the addition of one staff attorney could decrease the per staff disposition times for per curiams from 114 days to 88 days, and per staff disposition time for summary dispositions from 109 days to 85 days. While the addition of one staff attorney would not solve the staffing shortage, the Court of Appeals' performance, for the direct benefit of the public, can be enhanced by the addition of at least one staff attorney.

2013 – 2015 ISSUE PAPER

Department/Program: Court of Appeals

Issue Name: Central Staff Attorney Position

APPN: 660-101

DIN: 5100

	<u>2013-2014</u>	<u>2014-2015</u>
Permanent Salary	\$60,300	\$80,400
LTE Salary		
Fringe Benefits	24,800	33,100
Supplies & Services	900	1,200
Permanent Property		
One-Time		
TOTAL	\$86,000	\$114,700
FTE	1.0	1.0

NARRATIVE

The Court of Appeals requests \$86,000 in 2013-2014 and \$114,700 in 2014-2015 for 1.0 FTE central staff attorney position. An additional staff attorney position is necessary due to the change in the nature and the substantial increase in volume of the Court of Appeals' workload, which

prevent the Court from timely resolving the appeals the public presents. It has been 20 years since the Legislature approved a new staff attorney position for the Court of Appeals. That was last done in 1991.

The change in the nature of the Court’s workload is significant and directly affects the need for an additional position in order to meet the public’s demands for appellate review. To explain, staff attorneys participate in the drafting of per curiam opinions, summary orders, and no-merit opinions, after the judges have decided how the case should be resolved. Their participation is supervised by Court of Appeals judges. In addition, staff attorneys review the petitions and motions filed with the court, confer with the judges, prepare memoranda to the judges on petitions and motions and draft the orders that the judges direct to resolve motions and questionable petitions.

Motions in the Court of Appeals have tripled in number since 1991 when the last staff attorney position was approved by the Legislature. The motions vary greatly in the topics addressed. For example, motions include complex matters of jurisdiction, relief pending appeal, compliance with the rules of appellate procedure and extension of time requests. Petitions for leave to appeal ask the court to allow a discretionary appeal of a particular issue before the final conclusion of the case in the circuit court. Such petitions require staff attorneys to analyze the requests, apply statutory criteria, assess the likelihood of success on the legal issues to be raised and draft appropriate memoranda for judicial consideration. Petitions for supervisory writ seek an order directing a circuit court to take or refrain from certain action and are generally based on a limited record and the need for quick disposition. Staff attorneys also participate in petitions for writ of habeas corpus. Habeas petitions are most often filed by *pro se* prisoners and are more time consuming to address than are similar motions filed by attorneys.

Furthermore, an increasing number of parties in the Court of Appeals are not represented by counsel. The following chart reflects the number of appeals involving one or more *pro se* parties, including *pro se* prisoners, as tracked during the court’s jurisdictional review. These numbers do not reflect petitions for leave to appeal, petitions for supervisory writ, or habeas corpus filed by *pro se* prisoners, or *pro se* motions that do not result in an appeal.

	July to December 2011	January to June 2012	July to August 2012
Records with <i>pro se</i> litigants	317	301	114
Total records	1180	1108	440

% of <i>pro se</i> appeals	27%	27%	26%
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Perhaps surprising to some, fully one-quarter of the Court’s workload for appeals now involves at least one *pro se* party. *Pro se* filings take significantly more time. *Pro se* parties, who are generally untrained in both substantive and procedural law, tend to file imprecise motions and briefs. Accordingly, the Court of Appeals must spend considerable time and effort deciphering *pro se* filings. The Court relies on staff attorneys to perform the bulk of that important task, working as always under the direct supervision of judges.

Another factor in the changed nature of staff attorney workload is the dramatic increase in no-merit reports involving both criminal jury trial cases and termination of parental rights (TPR) cases. No-merit cases are assigned to staff attorneys on a court-wide rotation when the case is ready for submission, and require staff attorney work beyond the drafting of opinions assigned by judges after decision conferences. This extra work is necessary because federal and state law require that a no-merit review will involve reading the entire circuit court record and consideration of any possible issue for appeal. Therefore, the completion of a no-merit appeal involving a jury or court trial takes significantly longer than any other work done by a staff attorney. TPR no-merits generally include a statutory requirement that the Court resolve the appeal of a jury or court trial and evidentiary dispositional hearing on an expedited basis. No-merit appeals involving Chapter 980 (Sexually Violent Person) commitments/discharge and mental health commitments/extensions generally involve review of a trial to the court as well. Additionally, there has been an increase in the filings of *pro se* responses in no-merit reports.

While there has been a recent decline in appellate case filings, that is no longer an accurate measure of the Court of Appeals workload, nor is it an accurate measure of the nature or the volume of the staff attorney workload, as has been explained above. This change in the nature of the workload when combined with the increased volume have dramatically affected the timeliness of the service that the Court is able give to the public.

As the chart below shows, since 1991, the number of motions has more than tripled; the number of no merit cases also has tripled; and the numbers of per curiam opinions and summary orders have increased substantially.

Staff Attorney Work Load

		No Merit	Per Curiam
	Motions	Cases	Opinions/Summary
			Orders
1991	4,168	152	696
2001	7,776	620	1,049
2011	12,382	545	1,320
 % change:			
from 1991	197%	259%	90%
 Per staff attorney workload:			
1991	333	12	54
2011	885	39	94

Citizens have a statutory right to bring appeals of circuit court final judgments and final orders to the Court of Appeals for resolution. Accordingly, the Court of Appeals has no control over the number of appeals of right it hears or the number of motions and no-merit petitions it must decide. The public controls these numbers. Because all Court of Appeals decisions must be written, all decisions require both judicial time to decide the pending matter and individual preparation time to prepare the written decision. Citizens deserve resolutions of their cases in a timely manner.

However, because of the change in the nature of the Court's workload, its substantially increased volume and the lack of personnel, the Court no longer has the ability to resolve appeals in a timely manner. Therefore, the right of each citizen to a prompt resolution of the cases brought to the Court of Appeals is being compromised.

When created in 1978, the Court of Appeals was intended to be a fast-paced and high volume court.

The legislature recognized that for appellate review to be meaningful, citizens must have their disputes resolved in a timely fashion. Since 1991, the days to disposition for per curiam opinions and summary orders have risen significantly, thereby demonstrating a growing burden on the public who attempt to exercise their statutory right to appellate review.

For example, over the last 10 and 20 years respectively, all districts have experienced significant increases in the number of days to disposition. The average amount of time for a per curiam opinion was 252 days in 1991, 329 days in 2001 and 380 days in 2011, an increase of 51 percent over 20 years. Similarly, the average amount of time for a summary disposition was 229 days in 1991, 267 in 2001 and 353 days in 2011, an increase of 54 percent over 20 years. Although improved automation technology and more experienced staff have helped bolster the Court's production in recent years, the Court no longer has the ability to resolve appeals in a timely fashion. As shown by the chart below, the number of days between the commencement of an appeal and the issuance of a decision in which the staff attorneys participate has increased dramatically during the 20 years since a staff attorney position was added.

Days to Final Disposition

Per Curiam Opinions

	District I	District II	District III	District IV	Statewide
1991	245	249	220	288	252
2001	356	372	282	327	329
2011	392	381	356	399	380
% change:					
from 1991	60%	53%	62%	39%	51%

Summary Dispositions

	District I	District II	District III	District IV	Statewide
1991	234	207	198	305	229

2001	326	214	217	256	267
2011	380	329	282	384	353
% change:					
from 1991	62%	59%	42%	26%	54%

In the seminal publication by the National Center of State Courts known as the Meador Report, statistical analysis showed that the optimum number of cases for an appellate judge to resolve is 100 cases per year. In 1978, when the Court of Appeals had 12 judges, the stated goal by the authors of the court reorganization initiative was for Court of Appeals judges to be able to handle up to 1,200 cases per year, or 100 cases per judge. In 2011, there were 2,870 case filings. Employing the National Center’s standard, the Court of Appeals should have 28 judges. However the Court has only 16 judges.

Judges author decisions in the complex cases, those in which a member of the panel decides to write a concurring or dissenting opinion, those involving new points of law, and those in which the issue or issues warrant publication of the final opinion to serve as legal precedent.

The 16 judges cannot pick up the increased Court of Appeals workload. Each Court of Appeals judge personally reads a minimum of 21 sets of briefs per month and prepares for a decision conference in those cases by drafting a pre-screening memo for each case. Cases are conferenced with other panel members and a post-decision memo is drafted. As indicated above, judges author decisions in complex cases, those in which a member of the panel indicates a desire to write a concurring or dissenting opinion, those involving new points of law, and those in which the issue or issues warrant publication of the final opinion to serve as legal precedent. These cases require significant research, drafting, and editing time.

In addition to the cases screened at decision conferences with other judges, each Court of Appeals judge is assigned one-judge cases filed in his or her district on a rotation basis as the briefing in the case is completed. These are appeals designated by statute to be decided by a single Court of Appeals judge. They include TPR appeals that the statutes generally require be decided within 30 days of the filing of the last brief.

Each month a judge from each district and the Chief Judge of the Court of Appeals serve on the publication committee. This requires reading all opinions eligible for publication released in the preceding month, as well as any opinion for which a member of the public has requested publication. And, as outlined above, in addition to the above duties, Court of Appeals judges supervise and review the work of staff attorneys. That entails meeting with staff attorneys as necessary to convey the decision result for cases in which staff attorneys will participate; reviewing, editing, and finalizing opinion drafts; reviewing memos and recommendations prepared on motions and petitions filed with the court; and editing and approving orders on motions and petitions.

The Court of Appeals is a high volume court that has maintained high quality appellate decisions. However, the rate of Court of Appeals resolutions of cases per judge is vastly exceeding the expected output of 100 cases per year. Furthermore, the volume of cases and days to disposition have been maximized under current staffing. To continue to foster the legislative policy of providing citizens with fair and timely justice, upon which policy the Court of Appeals was created, at least one new staff attorney position must be added.

The addition of one staff attorney is crucial to the public interest because it will reduce the days to resolution of at least some appeals. It is estimated that the addition of one staff attorney would reduce disposition time for cases in which staff attorneys participate. For example, it is estimated that, in District IV, the addition of one staff attorney could decrease the per staff disposition times for per curiam decisions from 114 days to 88 days, and per staff disposition time for summary orders from 109 days to 85 days. While the addition of one staff attorney will not solve the staffing shortage, the Court of Appeals' and the Legislature's service to the public will be improved.

Decision Item by Line

1315 Biennial Budget

	CODES	TITLES
DEPARTMENT	660	Court of Appeals
	CODES	TITLES
DECISION ITEM	5100	Central Staff Attorney

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$60,300	\$80,400
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$24,800	\$33,100
06	Supplies and Services	\$900	\$1,200
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0

17	Total Cost	\$86,000	\$114,700
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	1.00	1.00

Decision Item by Numeric

Court of Appeals

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	5100	Central Staff Attorney			
01	Appellate proceedings				
	01 General program operations	\$86,000	\$114,700	1.00	1.00
	Appellate proceedings SubTotal	\$86,000	\$114,700	1.00	1.00
	Central Staff Attorney SubTotal	\$86,000	\$114,700	1.00	1.00
	Agency Total	\$86,000	\$114,700	1.00	1.00

Decision Item by Fund Source

Court of Appeals

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	5100	Central Staff Attorney				
	GPR	S	\$86,000	\$114,700	1.00	1.00
	Total		\$86,000	\$114,700	1.00	1.00
Agency Total			\$86,000	\$114,700	1.00	1.00

Decision Item (DIN) - 6214

Decision Item (DIN) Title - Judicial Compensation

NARRATIVE

A nonstatutory provision is requested to require that judicial salaries under the 2013-15 compensation plan be set at a level comparable to the national average as of January 1, 2012 for trial court salaries. This represents a 6.54% increase for all three courts. Funding for the increases (\$141,300 GPR in 2013-14 and \$154,200 GPR in 2014-15 for the Court of Appeals) is also requested. Wisconsin's judicial salaries have lost ground when compared with other Wisconsin state government officials, the State's top law school professors, local government officials and employees who may appear before judges, federal judges and judges in other states. The Council of State Governments 2012 rankings show Wisconsin's governor's salary ranks 19th nationally and 4th among the seven Midwest states, while Wisconsin's attorney general's salary ranks 12th and 2nd respectively. As of January 2012, the National Center for State Courts (NCSC) ranked Wisconsin's trial court judicial salaries 32nd among the 50 states. The Court of Appeals salaries were 25th of the 39 state appellate courts nation-wide and the Supreme Court salaries were 31st of 50 courts. In contrast, the October 2001 NCSC survey showed that Wisconsin's circuit court judges' salaries ranked 24th nationwide while the Court of Appeals salaries ranked 22nd, and Supreme Court salaries ranked 23rd. Even with the requested increase, Wisconsin judicial salaries would remain below the Midwest States' average. At some point, inadequate salaries will outweigh the intangible rewards of a judge's job, discouraging talented lawyers from seeking or accepting judgeships. Substantial salary increases are needed to continue to attract high quality people. Without such increases, there is concern that only independently wealthy or relatively inexperienced attorneys will choose judicial service. The judiciary's level of influence and decision-making has a direct impact on Wisconsin's citizens and communities. Quality people must be attracted and retained for the difficult role of a judge. The importance of retaining the valuable skills and insights offered by the State's experienced judges cannot be stressed enough.

2013 – 2015 ISSUE PAPER

Department/Program: Supreme Court, Court of Appeals, Circuit Courts

Issue Name: Judicial Compensation

APPNS: 680-101, 660-101, 625-101

DIN: 6214

SUPREME COURT

APPN: 680-101

	<u>2013-2014</u>	<u>2014-2015</u>
Permanent Salary	\$60,700	\$66,200
Fringe Benefits	\$ 5,000	\$ 5,400
TOTAL	\$65,700	\$71,600

COURT OF APPEALS

APPN: 660-101

	<u>2013-2014</u>	<u>2014-2015</u>
Permanent Salary	\$130,700	\$142,600
Fringe Benefits	\$ 10,600	\$ 11,600
TOTAL	\$141,300	\$154,200

CIRCUIT COURTS

APPN: 625-101

	<u>2013-2014</u>	<u>2014-2015</u>
Permanent Salary	\$1,920,200	\$2,094,800
LTE Salary (Reserve Judges)	\$ 36,400	\$ 39,700
Fringe Benefits	\$ 158,300	\$ 172,700
TOTAL	\$2,114,900	\$2,307,200

NARRATIVE

The Supreme Court requests a nonstatutory provision requiring judicial salaries under the 2013-2015 state compensation plan be set at a level comparable to the national average as of January 1, 2012 for trial court judicial salaries. Needed funding of \$2,321,900 GPR in 2013-14 and \$2,533,000 GPR in 2014-15 is also requested.

Background

Judicial compensation has been a long-standing concern – since 1978, the salaries of Wisconsin justices and judges have declined by 12% when adjusted for inflation. Their salaries will continue to experience a decline for two reasons: (1) the judicial rate of office has remained unchanged for over three years (the last increase was granted in February 2009); and (2) the passage of 2011 Wisconsin Acts 10 and 32 require judges to pay more to their health insurance and retirement. Despite the real decline in judicial salaries, with the onset of the 2008 recession the Supreme Court requested the Legislature’s Joint Committee on Employment Relations (JCOER) to rescind a previously approved 2% general wage adjustment for the judiciary that was to take effect on or after June 7, 2009. JCOER complied with the request; however, most executive branch attorneys received the 2% increase, which exacerbated the compression problems between government attorney and judicial salaries.

During the 2011-2013 biennial budget process, at the request of the Wisconsin Trial Judges Association (WTJA), the Wisconsin Court System submitted a request to create a Wisconsin

Judicial Compensation Commission. Under the proposal the Commission would have made written recommendations to the Governor and JCOER on judicial salaries every two years – in effect, replacing OSER in the development of recommending judicial compensation. Judicial salaries would have been increased based on the general wage increases awarded to all state employees or the salary increases recommended by the Commission and approved by JCOER, whichever was greater. The Governor denied the court system's biennial budget request. The Legislature subsequently included in its biennial budget bill a provision to create a Wisconsin Judicial Compensation Commission. The Governor, however, vetoed the Legislature's proposal.

Need for Request

For more than a decade, Wisconsin's judicial salaries have been falling far behind the labor market and it is imperative that the necessary funding be included in the 2013-2015 biennial budget to begin to re-establish judicial pay at an equitable level that properly compensates the work of the judiciary.

Wisconsin's judicial compensation is low compared to other Midwest states and other Wisconsin elected officials. Wisconsin has no systematic way for salary adjustments to be made based on analyses tied specifically to the judiciary. Raises for judges are recommended by the Office of State Employment Relations (OSER), on behalf of the Governor, to the Legislature's JCOER as part of a larger proposal for unrepresented state employees and other elected officials. JCOER's action is final, subject to veto by the Governor. Once approved, any compensation adjustment becomes effective when a new judge or justice takes office after the effective date of the approved plan. While approval of judicial compensation changes is not included in the biennial budget, the approval process coincides with the biennial budget process in that funding for compensation changes must be included in the biennial budget act, appropriated under Program Supplements.

A number of benchmarks are used to assess the adequacy of Wisconsin's judicial salaries: (1) comparison with other Wisconsin state government officials; (2) comparison with the State's top law school professors; (3) comparison with local government officials and employees who may appear before judges; (4) comparison with federal judges; and (5) comparison with judges in other states. Wisconsin's judicial salaries have lost ground under all of these measurements.

Wisconsin's judicial salaries are not as equitable when compared with counterparts in other states, unlike that enjoyed by Wisconsin's governor and the attorney general. The Council of State Governments 2012 rankings show the salary for Wisconsin's governor ranks 19th nationally and 4th among the seven Midwest states. Likewise, Wisconsin's attorney general's salary ranks 12th nationwide and 2nd among the seven Midwest states. As of January 2012, the National Center for State Courts (NCSC) ranked Wisconsin's trial court judicial salaries 32nd among the 50 states. The Court of Appeals salaries were 25th of the 39 state appellate courts throughout the nation and the Supreme Court salaries were 31st of 50 courts.

It is easy to show how Wisconsin's judicial salaries have lost ground using these annual national rankings by taking a look back ten years. The October 2001 NCSC survey showed that Wisconsin's circuit court judges' salaries ranked 24th nationwide while the Court of Appeals salaries ranked 22nd, and Supreme Court salaries ranked 23rd. NCSC rankings are considered a sound measurement for assessing the adequacy of judicial salaries.

Request

Non-statutory language is requested to require Wisconsin's trial court judicial salaries to be set at the national average salary for trial court judges, based on the NCSC survey as of January 2012.

As the following table shows, to set Wisconsin's trial court judicial salaries at the national average would require a 6.54 percent increase. This 6.54 percent increase would then be applied to appellate court salaries. Even with these increases, Wisconsin judicial salaries would remain below the Midwest States' average.

**Requested Increase To Judicial Compensation To
General Jurisdiction Trial Court Salaries National Average
Most Current Rankings – January 2012**

Court	Current Rate of Office	National Average	Midwest States' Average²	Requested Increase To National Average³	Percentage Increase Being Requested
Circuit Court	\$128,600	\$137,013	\$137,592	\$137,013	6.54%
Court of Appeals ¹	\$136,316	\$146,887	\$149,906	\$145,231	6.54%
Supreme Court	\$144,495	\$152,459	\$160,080	\$153,945	6.54%

¹Only 39 states have comparable intermediate appellate courts

²Midwest states include Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio and Wisconsin

³As of January 2012, the National Center of State Courts calculated the general jurisdiction trial court salaries national average to be \$137,013 annually

GPR funding totaling \$2,321,900 in 2013-14 (\$2,148,000 for salaries and \$173,900 for fringe benefits) and \$2,533,000 in 2014-15 (\$2,343,300 for salaries and \$189,700 for fringe benefits) is needed to set the judicial rates of office so they are comparable to NCSC's calculated national average for general jurisdiction trial court judicial salaries as of January 2012. This funding would reset Wisconsin's Circuit Court judges' salaries so they are more competitive with the current labor market and would similarly reset the salaries for Supreme Court justices, Court of Appeals judges and reserve judges.

Conclusion

Wisconsin's judicial salaries continue to lag behind comparable counterparts. At some point, inadequate salaries will outweigh the intangible rewards of a judge's job, discouraging talented lawyers from seeking or accepting judgeships. To continue to attract high quality people, substantial salary increases are needed. Without meaningful increases, there is concern that only independently wealthy or relatively inexperienced attorneys will choose judicial service. For Wisconsin's adversarial justice system to work, decision-makers must be competent and compensated in some way comparable to the advocates who appear before them.

The judiciary's level of influence and decision-making has a direct impact on Wisconsin's citizens and the quality of life in our communities. Talented, experienced people must be attracted to and retained for the difficult role of a judge. The importance of retaining the valuable skills and insights offered by the State's experienced judges cannot be stressed enough.

Non-Statutory Language Request

Judicial Compensation

Require circuit court judicial salaries under the 2013-2015 state compensation plan be set at a level comparable to the national average as of January 1, 2012 for trial court judicial salaries, with corresponding increases in Court of Appeals judge and Supreme Court justice salaries. This would result in wage increases of 6.54% for each of the courts.

Decision Item by Line

1315 Biennial Budget

	CODES	TITLES
DEPARTMENT	660	Court of Appeals
	CODES	TITLES
DECISION ITEM	6214	Judicial Compensation

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$130,700	\$142,600
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$10,600	\$11,600
06	Supplies and Services	\$0	\$0
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0

17	Total Cost	\$141,300	\$154,200
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

Decision Item by Numeric

Court of Appeals

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	6214	Judicial Compensation			
01	Appellate proceedings				
	01 General program operations	\$141,300	\$154,200	0.00	0.00
	Appellate proceedings SubTotal	\$141,300	\$154,200	0.00	0.00
	Judicial Compensation SubTotal	\$141,300	\$154,200	0.00	0.00
	Agency Total	\$141,300	\$154,200	0.00	0.00

Decision Item by Fund Source

Court of Appeals

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	6214	Judicial Compensation				
	GPR	S	\$141,300	\$154,200	0.00	0.00
	Total		\$141,300	\$154,200	0.00	0.00
Agency Total			\$141,300	\$154,200	0.00	0.00